

IN THE DISTRICT COURT OF THE SECOND JUDICIAL MESTRIOR
OF THE STATE OF UTAH, IN AND FOR WEBER COUNTY

PLAIN CITY IRRIGATION COMPANY,
a Corporation,

Plaintiff,

No. 7487

vs.

ROOKE IRIGATION COMPANY, a
Corporation, et al.,

Defendants.

HEARING ON FINAL DECREE

At Ogden, Weber County, Utah, on Thursday, April 1,
1968, at ten o'clock a. m., before Hon. John A. Hendricks,
one of the judges of the above entitled court.

APPEARANCES:

J. A. Howell, Esq., Attorney preparing Decree; also
appearing for Lower Valley Users and for Hyra Ogden.

Hon. S. Barker, Esq., and E. P. Dobbs, Esq., appearing
for Ogden City.

Mease- Thatcher & Young, appearing for Upper Valley
Users and for Eden Irrigation Company.

S. P. Dehne, Esq., appearing also for T. Leland Harrocks
and S. A. Harvey.

E. A. Kugelian, Esq., appearing for a number of water
users.

H. H. Reeder, Jr., Esq., appearing for a number of water users.

THE COURT: File No. 7427, Plain City Irrigation Company, a Corporation, Plaintiff, versus Hooper Irrigation Company, North Ogden Irrigation Company, State of Utah, and other claimants to rights to use water.

MR. HOWELL: If your Honor please, -- pursuant to the order which your Honor made, notice has been given by the Clerk in accordance therewith, and the affidavit is being prepared and will be in file. And I only want to strike from the original decree the words on page 18.

THE COURT: Is this the one you are talking about?

MR. HOWELL: Yes, that is the one I am talking about -- in the 13th line from the bottom. Strike the words that Agnes S. Gritton is Deputy, because affidavit will be made by Mr. Malan, Mrs. Gritton being ill at this time.

And, also, pursuant to the meetings held -- Numerous conferences have been had between various water users and Mr. Boronen and myself, and I think that practically all the matters connected with the decree, with the exception of the situation between the water users and Ogden City, have been ironed out.

Now, of course, as your Honor is aware, this matter has been held up for many years by reason of the controversy existing between the water users and Ogden City, and finally the State Engineer filed a petition in this proceeding and asked for an order to show cause upon the City, and the City subsequently filed a petition raising certain issues as to the stipulation which was entered into in 1929, and

those matters were pending in this court when the proposed decree was written. However, in the proposed decree, in Paragraph 7 of the same instrument your Honor has been reading from, commencing on Page 16 of the proposed decree with the original stipulation. -- However, since that time we have had meetings between the representatives of the City and other water users, and with the attorneys for the City, now Mr. H. P. Babbs and Judge Barker, and we have arrived at an agreement as to just how Paragraph 7 shall be worded, which settles all the differences between the City and the Water Users, and I think we are now ready to stipulate that in lieu of Paragraph 7 in the proposed decree, -- that the Paragraph 7 which I will now read to the court shall be substituted in its entirety, and that we agree as follows:

(7) That upon the stipulation of all of the users of water of the Ogden River and its tributaries, for the purpose of compromising and permanently settling all disputes, controversies and litigation between the appropriators and users of water from Ogden River and its tributaries, that as between the appropriators and users of water in Ogden Valley, and which are shown in the Tabulation herein as right numbers 164 to 382, inclusive, and hereinafter called "Upper Valley Users," Ogden City and the appropriators and users of water lower down on said river and which are shown in the Tabulation herein as rights numbers 1 to 36, inclusive, hereinafter called "Lower Valley Users," as follows:

(a) That the prior right of Ogden City to the use of all of the flow from Cold Water Creek and springs and from Warm Water Creek and Springs, and of the waters of Wheeler Creek to the extent of the capacity of its present intake is hereby established. Ogden City is likewise entitled to the flow from the forty-eight (48) artesian wells located at the bottom of the Pine Tree Reservoir, but shall not be entitled to drill more wells in that area, except to replace by a well of like size any of said wells which may become clogged or otherwise abandoned by said City; nor shall it be entitled

Decree follows.